



# UNITED STATES PATENT AND TRADEMARK OFFICE

*m.H.*  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,814	11/20/2000	Thomas J. Maginot	1537-0018	9039

7590 07/09/2003  
Paul J. Maginot  
10269 Bent Creek Court  
Fishers, IN 46038

EXAMINER

SIRMONS, KEVIN C

ART UNIT	PAPER NUMBER
----------	--------------

3763

DATE MAILED: 07/09/2003 *16*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/716,814

Applicant(s)

MAGINOT, THOMAS J.

Examiner

Kevin C. Simons

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 33-38 and 40-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-36, 40-43 and 46-50 is/are rejected.
- 7) ☒ Claim(s) 37, 38, 44, 45, 51 and 52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5,7,13. 6) ☐ Other:

Art Unit: 3763

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group II Species J in Paper No. 12 and 15 are acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, claims 33-38 and 40-52 will be examined.

### ***Specification***

The abstract of the disclosure is objected to because the abstract should be 150 words or less. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33, 40, 43, 46, 47, and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Vachon U.S. Pat. No. 5,531,780.

Vachon discloses a guide catheter (20) having a distal guide orifice (36), a proximal guide orifice (col. 4, lines 7-9), and a guide lumen extending therebetween (col. 4, lines 3-17); a tube segment having a distal tube orifice, a proximal tube orifice and a tube lumen extending therebetween (172, 186),

Art Unit: 3763

wherein said tube segment extends through said distal guide orifice (figs. 7 and 9), wherein said proximal tube orifice is positioned within said guide lumen (figs. 7 and 9), and wherein the distal tube orifice is positioned outside of said guide lumen (figs. 7 and 9); as to claim 40, (the examiner considers the distal connector of 84, 184 to be the pusher); as to claim 43, (56); as to claims 46-47, (see above rejections); as to claim 50, (56).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 33-36, 40-43 and 46-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Yoon U.S. Pat. No. 5,843,017.

Yoon discloses a guide catheter (12) having a distal guide orifice (distal end of 24), a proximal guide orifice (proximal end of 24), and a guide lumen extending therebetween (the interior of 24); a tube segment having a distal tube orifice, a proximal tube orifice and a tube lumen extending therebetween (18), wherein said tube segment extends through said distal guide orifice (fig. 2), wherein said proximal tube orifice is positioned within said guide lumen (fig. 2), and wherein the distal tube orifice is positioned outside of said guide lumen (fig. 2); as to claim 34, (pusher (64/74), closure member (77/83)); as to claim 35, (col. 9, lines 24-27); as to claim 36, ((79) is a metal wire which is attached to (76) which is a portion of tube (18)); as to claims 40-43, 46-50 (see above rejections).

Art Unit: 3763

***Allowable Subject Matter***

Claim 37, 38, 44, 45, 51 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The prior art of record discloses the a catheter system substantially as claimed except for a swivel, an upper pusher portion interposed between said closure member and a lower pusher and a lower pusher portion interposed between said swivel and said tube segment and a pusher positioned within the sideport branch.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703) 306-5410. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

*KCS*

Kevin C. Sirmons  
Patent Examiner  
6/23/03